

**INSPECTOR'S STATEMENT- Event Violation**  
**Minerals Regulatory Program**

Company/Mine: TMC Capital, LLC  
Permit #: M/047/0089

Violation # MN-2015-60-04  
Date Issued 11/05/2015

**A. SERIOUSNESS**

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- ☐ a. Activity outside the approved permit area.
- ☐ b. Injury to the public (public safety).
- ☐ c. Damage to property.
- ☐ d. Conducting activities without appropriate approvals.
- ☒ e. Environmental harm.
- ☒ f. Water pollution.
- ☐ g. Loss of reclamation/revegetation potential.
- ☐ h. Reduced establishment, diverse and effective vegetative cover.
- ☐ i. Other.

Explanation: **This citation was written in response to observing two pooled areas of oil/water mixtures. One inside a secondary containment enclosure and the second inside a sump area near an old furnace. The containment enclosure was originally used as a 55-gallon drum storage area. The containment berm is constructed out of the tar sands ore material found throughout the property. During the November 4, 2015 inspection, the containment area was observed to contain two polypropylene above-ground storage tanks. These tanks were surrounded by an oil/water mixture that was allowed to fill the entire containment berm. The liquid level was within 6 inches of the top of the berm. The sump was in ground approximately 5 feet deep with wooden walls and contained approximately one foot of an oil (presumed to be diesel fuel) and water.**

2. Has the event or damage occurred? **NO**  
If yes, describe it.

Explanation:

3. Did any damage occur as a result of the violation? **NO**  
If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not been discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

Explanation: **One or both of the ASTs in the impoundment presumably leaked oil. The oil/water mixture filled the impoundment area entirely. This containment area was designed for drum storage, not as an impoundment area for liquid. Any significant storm could have easily overtopped the oil/water, causing a reportable spill to the Division of Environmental Quality. According to Google Earth, the perennial stream located on the property is only 210 feet from the containment area.**

**B. DEGREE OF FAULT (Check the statements which apply to the violation and discuss).**

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: \_\_\_\_\_



- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: **Lack of Reasonable Care: The operator failed to take action regarding the existing environmental hazards that they inherited from the previous operator at the site. There are several areas throughout this site where various forms of deleterious materials are found. There is a sump area containing some type of fuel product (presumably diesel fuel) random 55-gallon drums that are rusted out, partially filled ASTs, containing unknown liquids. The new operator needs to take a full inventory of all oil and hazardous materials that are found in this permit area and properly dispose of them.**

- ☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: \_\_\_\_\_

- ☐ Was the operator in violation of a specific permit condition?

Explanation: \_\_\_\_\_

- ☒ Has DOGM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: **The Division issued a directive on September 12, 2013 requiring the new operator, TMC Capital, who are now the present operator of record to remove several open and rusted drums from the same containment area. The drums were removed; however in their place as discovered on November 4, 2015, were the two ASTs leaking oil and mixing with storm water inside the berm where overflow was imminent. The construction of the sump was in poor condition. Diesel inside the sump may possibly have caused a release of oil to the surrounding soil.**

- ☒ Was any economic benefit gained by the operator for failure to comply? \_\_\_\_\_ If yes explain.

Explanation: **The operator is currently mining material legally from this mine and did not spend any money performing necessary remediation of vacuuming out liquid waste material and properly disposing of it.**

**GOOD FAITH (only if violation has been terminated)**

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: **The operator has mobilized a vacuum truck to remove the oil tanks and the oil and water mixture from the containment area and from the sump near the relic furnace. The liquid oil/water mixture has been trucked to a disposal facility.**

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: \_\_\_\_\_

3. Was the submission of plans prior to physical activity required by this NOV/CO? \_\_\_\_\_ If yes, explain.

Explanation: \_\_\_\_\_

April Abate  
DOGM Inspector

  
Signature

11/4/15  
Date